

A Response to the Restriction Requirement:

A. Status of the Claims

Claims 1-73 were pending at the time the Restriction Requirement was issued on February 12, 2004. Claims 1-24 and 62-73 have been cancelled without prejudice or disclaimer in the Amendment submitted herewith as directed to non-elected inventions in response to the Restriction Requirement as discussed below.

Claims 25-35, 37, and 39-42 have been amended without prejudice or disclaimer. Claims 74-82 have been added by amendment. Applicants note that new claims 74-82 correspond to Group III of the restriction requirement, in that they are all dependent to claims previously found by the Examiner to be within the Group III invention. All of the claim amendments and the new claims are supported in the specification and claims as originally filed.

In view of the above, claims 25-61 and 74-82 are pending.

B. Response to Restriction Requirement

In response to the Restriction Requirement, Applicants elect, without traverse, to prosecute the Group III invention, as exemplified by claims 25-61 and 74-82. Applicants reserve the right to prosecute claims directed to the non-elected inventions in continuing applications.

Additionally, in view of the election of the Group III invention and the statements of paragraph 13 of the Action setting forth a species election requirement, Applicants elect the SEQ ID NO:9 and antigenic fragments thereof as the species for initial examination in this case.

Applicants would point out that SEQ ID NO:9 comprises, as amino acids 258-406, the 149 amino acid sequence of SEQ ID NO:7. Further, SEQ ID NO:8 (which encodes SEQ ID NO:9), comprises, as nucleic acids 772-1220, the 449 nucleic acids of SEQ ID NO:6 (which encodes SEQ ID NO:7). Therefore, in view of the election of the species of antigens or antigenic fragments having a sequence of SEQ ID NO:9, claims directed to antigens of SEQ ID NO:7 and

antigenic fragments thereof, polypeptides of SEQ ID NO:8 and fragments thereof, and polypeptides of SEQ ID NO:6 and fragments thereof are subspecific claims within the specific claims directed to antigens of SEQ ID NO:9 or antigenic fragments thereof. No additional search is required to search SEQ ID NO:7 if SEQ ID NO:9 is searched and no additional search is required to search SEQ ID NO:6 if SEQ ID NO:8 is searched.

Claims 25, 26, 29-32, 36-39, and 43-61 are generic to the elected species based on SEQ ID NO:9. With respect to all non-elected species, Applicants reserve the right to have a reasonable number of claims directed to non-elected species considered by the Examiner upon allowance of a generic claim under 37 C.F.R. § 1.141.

C. Interview Summary

A telephonic interview between Examiner Vanessa L. Ford and Applicants' representative was held on February 3, 2004. In the interview, Applicants' representative stated that claims 52-61 were omitted from the Restriction Requirement mailed on October 2, 2003. Examiner Ford informed Applicants' representative that the Restriction Requirement mailed on October 2, 2003 would be vacated and a new Restriction Requirement would be mailed. In this new Restriction Requirement, claims 52-61 were included by the Examiner in the presently elected Group III invention.

D. Conclusion

Applicants believe this to be a full and complete response to the Restriction Requirement dated February 12, 2004. It is believed that no fee is due for filing this Response to the Restriction Requirement. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, consider this paragraph such a request and authorization to withdraw the appropriate fee from Fulbright & Jaworski Deposit Account No. 50-1212/UTSD:736US.

Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3035.